

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 11-1814 (CAS) (PJWx)	Date	October 16, 2012
Title	FRANCISKA SUSILO V. WELLS FARGO BANK, N.A., ET AL.		

Present: The Honorable	CHRISTINA A. SNYDER	
Catherine Jeang	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants	
Not Present	Not Present	

Proceedings: (In Chambers:) DEFENDANT WACHOVIA MORTGAGE FSB, WELLS FARGO BANK NA'S EX PARTE APPLICATION TO SUPPLEMENT SUMMARY JUDGMENT MOTION (Docket #138, filed October 4, 2012)

PLAINTIFF'S EX PARTE APPLICATION FOR ORDER ADVANCING HEARING OF PLAINTIFF'S MOTION TO FILE A THIRD AMENDED COMPLAINT AND CONTINUING HEARING OF DEFENDANT WACHOVIA'S MOTIONS (Docket #137, filed October 4, 2012)

I. INTRODUCTION

On October 4, 2012, defendant Wachovia Mortgage ("Wachovia") filed an ex parte application seeking leave to amend its motion for summary judgment with recently received declarations. On October 7, 2012 plaintiff filed an opposition.

On October 4, 2012, plaintiff filed an ex parte application seeking to advance the date of her motion to file a third amended complaint and continue the dates of Wachovia's motions for summary judgment, motion to strike plaintiff's jury demand, and motion for special hearing requiring plaintiff to post an undertaking. On October 5, 2012, Wachovia filed an opposition.

Having considered the parties' arguments, the Court finds and concludes as follows.

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II. DISCUSSION

Wachovia requests leave to supplement its motion for summary judgment with declarations it recently received from Shanon De'Arman and Delilah Claudio, employees of ETS Services, LLC ("ETS"), which declared bankruptcy in May 2012. Wachovia's motion for summary judgment was filed on September 28, 2012, the last day permitted by the scheduling order in this case. As Wachovia explains in its ex parte application, after pursuing these declarations by requesting relief from the automatic bankruptcy stay, it only received the declarations on October 2, 2012, and hence could not timely file the declarations with its motion for summary judgment. Though the motion for summary judgment is set for hearing on October 29, 2012, Wachovia proposes that the motion be continued to give plaintiff sufficient time to review the declarations and respond to them in its opposition to the motion for summary judgment.

Plaintiff does not oppose continuing the hearing date for Wachovia's motion for summary judgment, nor does she oppose granting Wachovia leave to file the declarations from ETS employees provided that plaintiff is given an opportunity to review them prior to filing its opposition. Additionally, plaintiff requests moving the hearing date for all motions scheduled for October 29, 2012 because plaintiff's counsel will be out of the country from October 27, 2012 to November 10, 2012 to attend his son's wedding. Plaintiff proposes advancing her motion to file a third amended complaint to October 22, 2012, and continuing Wachovia's motions to a date after November 10, 2012.

The Court finds good cause for allowing Wachovia to supplement its motion for summary judgment with additional declarations received from ETS employees. Additionally, due to plaintiff's counsel's vacation, the Court finds good cause for continuing all hearings scheduled on October 29, 2012. Since the pretrial conference is scheduled for November 5, 2012, it also must be continued. Finally, as set out in the Court's separate order, since plaintiff's motion to file a third amended complaint is taken under submission as appropriate for disposition without oral argument, plaintiff's request to advance the date of that hearing is denied as moot.

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III. CONCLUSION

In accordance with the foregoing, the Court hereby ORDERS the following:

- Wachovia is hereby granted leave to supplement its motion for summary judgment with the declarations of Shanon De' Arman and Delilah Claudio.
- The hearing date for Wachovia's motion for summary judgment is continued to November 19, 2012 at 10:00 A.M. Plaintiff's opposition to this motion must be filed no later than October 29, 2012.
- The hearing date for Wachovia's motion to strike plaintiff's jury demand is continued to November 19, 2012 at 10:00 A.M.
- The hearing date for Wachovia's motion for special hearing requiring plaintiff to post an undertaking is continued to November 19, 2012 at 10:00 A.M.
- The Pretrial Conference date is continued to November 26, 2012 at 11:00 A.M.

IT IS SO ORDERED.

Initials of Preparer

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____ CMJ
